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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,
v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,
Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,
v.

JAMES LOWREY, individually and in his capacity
as general partner of Turtle Cay Partners, in his
capacity as personal representative of the Estate of
Marianne Lowey, and in his capacity as successor
partner of Coldbrook Associates Partnership, *et al.*,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION
(Substantively Consolidated)

Adv. Pro. No. 10-04387 (SMB)

**DECLARATION OF KEITH R. MURPHY IN SUPPORT OF
TRUSTEE'S MOTION FOR SUMMARY JUDGMENT**

I, Keith R. Murphy, declare pursuant to 28 U.S.C. § 1746, that the following is true:

1. I am an attorney at the firm of Baker & Hostetler LLP and counsel to Irving H. Picard, Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§ 78aaa *et seq.*, and the estate of Bernard L. Madoff (“Madoff”).

2. I submit this Declaration in support of the Trustee’s motion for summary judgment in the above-captioned case (the “Motion”) under Rule 56 of the Federal Rules of Civil Procedure as made applicable by Federal Rule of Bankruptcy Procedure 7056.

3. Attached hereto as Exhibit A is a true and correct copy of the executed Joint Statement of Undisputed Material Facts prepared and submitted in connection with the Motion in *Picard v. James Lowrey, et al.*, Adv. Pro. No. 10-04387 (SMB) (Bankr. S.D.N.Y. June 27, 2017), ECF No. 75.

4. Attached hereto as Exhibit B is a true and correct copy of the relevant portions of the court hearing transcript pertaining to the oral arguments in *Picard v. Marilyn Bernfeld Trust*, Adv. Pro. No. 10-05143 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015), ECF No. 20.

5. Attached hereto as Exhibit C is a true and correct copy of the relevant portions of the court hearing transcript pertaining to the oral arguments in *Picard v. Mendelow*, Adv. Pro. No. 10-04283 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015), ECF No. 85.

6. Attached hereto as Exhibit D is a true and correct copy of the transcript of oral arguments in *Picard v. Trust u/art Fourth o/w/o Israel Wilenitz, et al.*, Adv. Pro. No. 10-04995 (SMB) (Bankr. S.D.N.Y. May 17, 2016), ECF No. 67.

7. Attached hereto as Exhibit E is a true and correct copy of the plea allocution of Bernard L. Madoff, *United States v. Madoff*, No. 09 Cr. 00213 (DC) (S.D.N.Y. Mar. 12, 2009), ECF No. 143-1.

8. Attached hereto as Exhibit F is a true and correct copy of the plea allocution of Frank DiPascali, Jr., *United States v. DiPascali*, No. 09-CR-764 (RJS) (S.D.N.Y. Aug. 11, 2009), ECF No. 143-2.

9. Attached hereto as Exhibit G is a true and correct copy of the plea allocution of David L. Kugel, *United States v. Kugel*, No. 10-CR-228 (LTS) (S.D.N.Y.) Nov. 21, 2011, ECF No. 143-3.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
August 11, 2017

/s/ Keith S. Murphy
Keith R. Murphy